

GEHRING & SATRIALE LLC
Louis R. Satriale, Jr. (LS-5027)
Joseph E. Gehring, Jr. (JG-8178)
The Lincoln Building
60 East 42nd Street, Suite 817
New York, New York 10165
(212) 400-7420
(212) 400-7440 (fax)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FREDDY M. MOROCHO, WALTER TACURE on
behalf of themselves and others similarly situated,

Plaintiffs,

-against-

GEORGE C. KELLY and
NYACK COLONIAL CAR WASH, INC.,

Defendants.

07 Civ. 2979 (CLB) (MDF)

ELECTRONICALLY FILED

**REPLY DECLARATION OF
GEORGE C. KELLY**

GEORGE C. KELLY hereby declares as follows:

1. I am a Defendant in the above-referenced action. I am also the manager of the car wash owned and operated by Nyack Colonial Car Wash, Inc. ("Nyack Colonial"). I am fully familiar with the pleadings and proceedings in this matter and I have personal knowledge of the facts set forth herein, except where otherwise indicated. I submit this Reply Declaration in further support of the Defendants' motion to dismiss or, in the alternative, for summary judgment.

2. I understand that, although the complaint identifies him as Plaintiff "Walter Tacure," an affidavit submitted in opposition to the motion now identifies him as "Walter Tacuri." Although Nyack Colonial issues employees with Forms W-2 following each calendar year – for example, we have such forms for Morocho – there are no such forms, or any other

records, reflecting anyone named Walter Tacure, Walter Tacuri or any other similar name going back at least to 2000.

3. In my original declaration, I speculated as to who Walter Tacure could have been, since I did not know anyone by that name working at the car wash since I arrived in 1999. Mr. Tacuri says he is not that person, although that does not change the fact that neither I nor any of the car wash's current employees have any idea who Mr. Tacuri is.

4. In my original declaration, I also explained the duties and responsibilities of Freddy Morocho, who was often the only manager on-site at the car wash. I understand that Mr. Morocho – who wore a different-colored jacket than the other workers at the car wash and was paid almost twice as much as the other workers – does not dispute his duties and responsibilities.

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 10, 2007.


GEORGE C. KELLY